

1 Matthew Franklin Jaksa (CA State Bar No. 248072)
2 HOLME ROBERTS & OWEN LLP
3 560 Mission Street, 25th Floor
4 San Francisco, CA 94105-2994
5 Telephone: (415) 268-2000
6 Facsimile: (415) 268-1999
7 Email: matt.jaksa@hro.com

ORIGINAL
FILED

SEP 20 2007

RICHARD W. MULDOON,
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND, CALIFORNIA

8 Attorneys for Plaintiffs,
9 LAFACE RECORDS LLC; CAPITOL RECORDS,
10 INC.; WARNER BROS. RECORDS INC.; UMG
11 RECORDINGS, INC.; BMG MUSIC; and ARISTA
12 RECORDS LLC

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

ADR

15 C07-04875
CASE NO.

JF

RS

16 COMPLAINT FOR COPYRIGHT
17 INFRINGEMENT

18 LAFACE RECORDS LLC, a Delaware limited
19 liability company; CAPITOL RECORDS, INC.,
20 a Delaware corporation; WARNER BROS.
21 RECORDS INC., a Delaware corporation; UMG
22 RECORDINGS, INC., a Delaware corporation;
BMG MUSIC, a New York general partnership;
and ARISTA RECORDS LLC, a Delaware
limited liability company,

Plaintiffs,

v.

JOHN DOE,

Defendant.

1 JURISDICTION AND VENUE

2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant John Doe (“Defendant”) is unknown to Plaintiffs at this time, on
8 information and belief, Defendant may be found in this District and/or a substantial part of the acts
9 of infringement complained of herein occurred in this District. On information and belief, personal
10 jurisdiction in this District is proper because Defendant, without consent or permission of the
11 copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by
12 Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the
13 United States, including this one. In addition, Defendant contracted with an Internet Service
14 Provider (“ISP”) found in this District to provide Defendant with the access to the Internet which
15 facilitated Defendant’s infringing activities.

16 PARTIES

17 4. Plaintiff LaFace Records LLC is a limited liability company duly organized and
18 existing under the laws of the State of Delaware, with its principal place of business in the State of
19 New York.

20 5. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the
21 laws of the State of Delaware, with its principal place of business in the State of New York.

22 6. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing
23 under the laws of the State of Delaware, with its principal place of business in the State of
24 California.

25 7. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
26 laws of the State of Delaware, with its principal place of business in the State of California.

27 8. Plaintiff BMG Music is a general partnership duly organized and existing under the
28 laws of the State of New York, with its principal place of business in the State of New York.

9. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

10. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to Defendant by his or her ISP on the date and time of Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant’s true name.

COUNT I

INFRINGEMENT OF COPYRIGHTS

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the

1 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and
2 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive
3 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are
4 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously
5 downloaded and/or distributed to the public additional sound recordings owned by or exclusively
6 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of
7 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being
8 distributed by Defendant.)

9 15. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on
10 each respective album cover of each of the sound recordings identified in Exhibit A. These notices
11 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.
12 These published copies were widely available, and each of the published copies of the sound
13 recordings identified in Exhibit A was accessible by Defendant.

14 16. Plaintiffs are informed and believe that the foregoing acts of infringement have been
15 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

16 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights
17 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against
18 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to
19 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

20 18. The conduct of Defendant is causing and, unless enjoined and restrained by this
21 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated
22 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502
23 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing
24 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound
25 recordings made in violation of Plaintiffs' exclusive rights.

26 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

27 1. For an injunction providing:

1 “Defendant shall be and hereby is enjoined from directly or indirectly
2 infringing Plaintiffs’ rights under federal or state law in the
3 Copyrighted Recordings and any sound recording, whether now in
4 existence or later created, that is owned or controlled by Plaintiffs (or
5 any parent, subsidiary, or affiliate record label of Plaintiffs)
6 (“Plaintiffs’ Recordings”), including without limitation by using the
7 Internet or any online media distribution system to reproduce (*i.e.*,
8 download) any of Plaintiffs’ Recordings or to distribute (*i.e.*, upload)
any of Plaintiffs’ Recordings, except pursuant to a lawful license or
with the express authority of Plaintiffs. Defendant also shall destroy
all copies of Plaintiffs’ Recordings that Defendant has downloaded
onto any computer hard drive or server without Plaintiffs’
authorization and shall destroy all copies of those downloaded
recordings transferred onto any physical medium or device in
Defendant’s possession, custody, or control.”

9 2. For statutory damages for each infringement of each Copyrighted Recording

10 pursuant to 17 U.S.C. § 504.

11 3. For Plaintiffs’ costs in this action.

12 4. For Plaintiffs’ reasonable attorneys’ fees incurred herein.

13 5. For such other and further relief as the Court may deem just and proper.

15 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

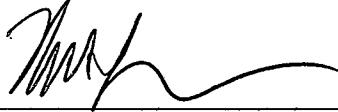
16 By: _____
17 
18 MATTHEW FRANKLIN JAKSA
19 Attorney for Plaintiff
20 LAFACE RECORDS LLC; CAPITOL
21 RECORDS, INC.; WARNER BROS.
22 RECORDS INC.; UMG RECORDINGS,
23 INC.; BMG MUSIC; and ARISTA
24 RECORDS LLC

EXHIBIT A**JOHN DOE****IP Address:** 207.62.147.183 2007-04-23 15:31:14 EDT**CASE ID#** 126511039**P2P Network:** Gnutella**Total Audio Files:** 451

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
LaFace Records LLC	Usher	You Make Me Wanna	My Way	257-730
Capitol Records, Inc.	Billy Idol	White Wedding	Billy Idol	39-673
Warner Bros. Records Inc.	Madonna	Lucky Star	Madonna	46-877
Warner Bros. Records Inc.	A-Ha	Take On Me	Hunting High and Low	63-603
Warner Bros. Records Inc.	Faith Hill	Breathe	Breathe	276-629
LaFace Records LLC	Toni Braxton	Un-Break My Heart	Secrets	233-892
UMG Recordings, Inc.	U2	One	Achtung Baby	139-599
BMG Music	Lonestar	I'm Already There	I'm Already There	298-550
Warner Bros. Records Inc.	Prince	1999	1999	41-035
Arista Records LLC	LFO	Summer Girls	LFO	306-981